

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Erick Nawrocki	Team: Team # 6	CCRB Case #: 200104945	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 02/26/2001 3:10 AM	Location of Incident: 103 East 169th Street	Precinct: 44	18 Mo. SOL 8/26/2002	EO SOL 8/26/2002	
Date/Time CV Reported Mon, 06/25/2001 12:00 AM	CV Reported At: CCRB	How CV Reported: Mail	Date/Time Received at CCRB Thu, 07/05/2001 4:24 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. CPT Charles Girven	00000	893101	SOD T/U

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Arthur Doyle	13067	885559	044 PCT
2. POM Michael Cautillo	16487	876183	044 PCT
3. POM Michael Mount	01110	919445	044 PCT
4. POM Ronald Schudde	02759	921756	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A.CPT Charles Girven	Force: Capt. Charles Girven fired his gun at § 87(2)(b)	

Synopsis

§ 87(2)(b) was arrested in front of 103 East 169th Street in the Bronx at approximately 3:10 a.m. on February 26, 2001. The following account of the incident is based on documents obtained from the New York City Police Department. According to the unusual occurrence report, the incident apparently began when a civilian witness (not identified in the report) lost his cellular phone inside a club that is located at 103 East 169th Street. A waitress later found the phone, but mistakenly gave it to § 87(2)(b)'s friend. When the waitress told the witness that people at § 87(2)(b)'s table had the phone, an argument ensued. The owner of the phone then went outside to call the police. Four police officers from the 44th precinct—PO Ronald Shudde, PO Michael Mount, PO Michael Cautillo and PO Arthur Doyle—arrived on the scene shortly thereafter to investigate the 911 call. When the four officers exited their RMPs, Captain Charles Girven—who was the Patrol Borough Bronx Duty Captain on that evening in question—arrived at the location to assist them.

Inside the club, the argument continued to escalate between § 87(2)(b) and friends of the owner of the cellular phone. § 87(2)(b) allegedly pulled out a handgun and shot one of the friends, § 87(2)(b) in the lower right abdomen. As Capt. Girven and the four sector officers were walking towards the club, they each heard a single gunshot fired from inside the club. According to a second civilian witness, § 87(2)(b) exited the restaurant and pointed his gun at the police. According to their interview summaries, PO Doyle, PO Cautillo, PO Mount, and PO Shudde took cover as they heard someone yelling, "Police, don't move, gun!" All of the officers stated that they heard three shots coming from Capt. Girven's position, although none actually saw the captain fire. The unusual occurrence report indicated that Capt. Girven discharged three rounds from his semi-automatic pistol. PO Cautillo did observe § 87(2)(b) fall to the ground with a gun in his hand, at which time he approached the suspect and handcuffed him.

§ 87(2)(b)'s weapon, a loaded 40 caliber, Ruger semi-automatic handgun, was recovered at the crime scene by PO Doyle and vouchered at the 44th precinct. The serial number on the weapon had been defaced, so a record check of the gun could not be conducted. Police documentation indicates that the weapon was loaded with nine rounds of 40 caliber ammunition. The firearm is capable of holding twelve rounds in the magazine and one round in the chamber. It was determined, at the time the unusual occurrence report was completed, that § 87(2)(b) fired at least one round and possibly as many as three rounds.

§ 87(2)(b) sustained a gunshot wound to the left shoulder and was transported to § 87(2)(b) Hospital. In the ambulance on the way to the hospital, § 87(2)(b) reportedly told PO Cautillo, "There is nothing else on me. I only had my piece on me. Do you want to know what happened? This was all over a cell phone. They were going to hit me. I thought I was going to get beat up so I pulled my piece and took care of it myself." The man § 87(2)(b) allegedly shot, § 87(2)(b) was taken to § 87(2)(b) Hospital.

Capt. Girven had not made an official statement at the time the unusual occurrence report was completed. Sgt. Deborah Chiu responded to the crime scene from the 44th precinct station house, at which time Capt. Girven told her that he saw § 87(2)(b) with a gun that he had pointed at PO Cautillo. The captain reportedly stated to Sgt. Chiu that he fired his own weapon at § 87(2)(b) because he feared for the officers' safety. Capt. Girven was later treated at § 87(2)(b) Hospital for trauma, ringing in the ears, and a strained back.

At the hospital, § 87(2)(b) allegedly spontaneously told PO Robert Nugent of the 44th precinct, "I shot him once. If I wanted to kill him, I would have shot him seven or eight times. After I shot him, I went outside the club." After being read his Miranda rights, § 87(2)(b) told Det. Benjamin Beiro of the 44th precinct detective squad that he got into an argument with an individual that came at him with a chair. He stated that he fired his gun into the air to scare that individual, and then ran outside. According to his arrest report, § 87(2)(b) was arrested for shooting § 87(2)(b) in the stomach during a dispute. § 87(2)(b)

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In a CCRB complaint form, dated June 25, 2001, § 87(2)(b) alleged that, “I was shot by a captain of the police department in the back one time, but he took three shots at me. He claims that I had a gun in my hand which I did not have. § 87(2)(b) . . .” § 87(2)(b) mailed his complaint to the CCRB from § 87(2)(b), apparently without consultation from his attorney.

On August 10, 2001, § 87(2)(b)'s criminal attorney, § 87(2)(b) stated that he would not permit the CCRB investigator to interview the complainant. A withdrawal letter was sent to § 87(2)(b) office on August 20, 2001. To date, the withdrawal letter has not been returned. The Bronx Assistant District Attorney assigned to § 87(2)(b)'s case, ADA Alan Karen, Esq., was contacted on several occasions since August 2001 and asked to provide all public court documents associated with the arrest and prosecution of the complainant. On January 25, 2002, ADA Karen indicated that he would be unable to provide those documents until the criminal case was closed. On that date, ADA Karen also related to the investigator that § 87(2)(b) had recently fired his first attorney, § 87(2)(b) and had hired a new attorney, § 87(2)(b). The investigator has attempted to contact § 87(2)(b) since that date, but the attorney has not responded to numerous messages that were left with his office. He has also not responded to a contact letter that was sent to his office on February 7, 2002. The investigator also went to the Bronx Supreme Court on § 87(2)(b), the scheduled date for § 87(2)(b)'s most recent court hearing, in order to ask § 87(2)(b) whether he would allow his client to provide a statement to the CCRB. Because the Assistant District Attorney requested that the hearing be postponed, however, § 87(2)(b) and his attorney did not appear in court. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)
§ 87(2)(b) has not responded to any contacts made by the CCRB, indicating he does not wish his client to be interviewed. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: